BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
KARINE GABOIAN, M.D.	)	**Case No. 8002013000779**
Physician's and Surgeon's Certificate No. A80337	)	
Respondent	)	

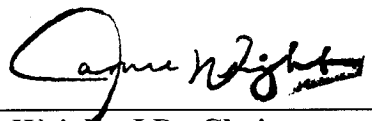
DECISION

The attached Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 21, 2016.

IT IS SO ORDERED: September 21, 2016.

MEDICAL BOARD OF CALIFORNIA



Jamie Wright, J.D., Chair
Panel A

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KARINE GABOIAN, M.D. 1058 North Vine Street Los Angeles, California 90038 Physician's and Surgeon's Certificate No. A80337, Respondent.	Case No. 800-2013-000779 OAH No. 2015070483 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Randall R. Murphy, Deputy Attorney General.

2. Respondent Karine Gaboian, M.D. ("Respondent") is represented in this proceeding by attorney Theodore A. Cohen, Esq., whose address is Law Offices of Theodore A. Cohen, 3550 Wilshire Blvd., Suite 1280, Los Angeles, California 90010.

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3. On or about August 30, 2002, the Medical Board of California issued Physician's and Surgeon's Certificate No. A80337 to Karine Gaboian, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2013-000779 and will expire on November 30, 2017, unless renewed.

JURISDICTION

4. Accusation No. 800-2013-000779 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 10, 2015. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2013-000779 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2013-000779. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2013-000779 and that she gives up her right to contest these charges.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2013-000779 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other California professional licensing agency is involved, and shall not be admissible in any other proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A80337 issued to Respondent Karine Gaboian, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the practice of medicine for 30 days beginning the sixteenth (16th) day after the effective date of this decision.

2. CLINICAL TRAINING PROGRAM. The Respondent shall not resume the practice of medicine until Respondent has enrolled and successfully completed a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program"). If the Respondent did not successfully complete the clinical training program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which Respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant.

Respondent shall pay all expenses associated with the clinical training program.

Based on Respondent's performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, Respondent shall submit to and pass an examination. Determination as to whether Respondent successfully completed the examination or successfully completed the program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical training program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified.

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in

advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have

been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice and billing monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice and billing shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of both medicine and billing and whether Respondent is practicing medicine safely and billing appropriately. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

7. PROHIBITED PRACTICE. During probation, Respondent is prohibited from consulting with and/or signing any immigration and/or naturalization forms used by any branch of the federal or any state government on behalf of any patient and is specifically barred from signing as the physician on any N-648 forms. After the effective date of this Decision, all

patients being treated by the Respondent shall be notified that the Respondent is prohibited from consulting with and/or signing any immigration and/or naturalization forms used by any branch of the federal or any state government on behalf of any patient and is specifically barred from signing as the physician on any N-648 forms. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

10. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been

compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

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13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

15. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition

of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

17. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Theodore A. Cohen, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 9-02-2016

KARINE GABOIAN, M.D.
Respondent

I have read and fully discussed with Respondent Karine Gaboian, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/9/2016

THEODORE A. COHEN, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

RANDALL R. MURPHY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2013-000779

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KARINE GABOIAN, M.D. 3078 Dragonfly St. Glendale, California 91206 Physician's and Surgeon's Certificate A80337 Respondent.	Case No. 800-2013-000779 **ACCUSATION**

Complainant alleges:

PARTIES

1. Complainant, Kimberly Kirchmeyer, brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California ("Board").

2. On August 30, 2002, the Board issued Physician's and Surgeon's Certificate number A80337 to Karine Gaboian, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2015, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

". . ."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct that would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

7. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

8. Section 2262 of the Code states:

"Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

"In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section."

9. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FACTS

10. Patient S.N.

A. On or about December 7, 2012, Respondent filled out a form called the N-648 for S.N., to allow S.N. to avoid the language and civics requirements for United States citizenship. S.N. was a 44-year-old woman and Respondent listed nine diagnoses: (1) memory loss, (2) hypertension-poorly controlled, (3) atherosclerosis, (4) COPD,[1] (5) left eye blindness, (6) arrhythmia, (7) anxiety, (8) depression, and (9) insomnia as the reasons S.N. was so disabled that she could not learn English nor learn about American civics. Respondent stated that S.N. was another physician's patient, but that S.N. came to her for the sole purpose of completing the N-648 form.

B. Respondent stated that she reviewed S.N.'s past medical records and made her own assessment. She concluded that S.N. had memory problems and "cognitive difficulties" caused by poorly controlled hypertension, COPD and atherosclerosis. Respondent's examination allegedly revealed impaired memory, orientation, language skills and other cognitive functions and that the patient needed help making meals, taking medications and required constant supervision from family. Respondent concluded that these issues, as well as anxiety and depression, caused S.N. to be unable to learn English or US history/civics.

C. Respondent also stated that S.N.'s deficits were consistent with organic brain dysfunction from "poorly controlled hypertension and COPD." Respondent also stated that the patient has "atherosclerosis" leading to "insufficient blood supply to the organ it feeds (the brain) . . ." She added that this was compounded by depressive symptoms.

D. On the N-648 form, S.N.'s blood pressure is listed as 160/100 on December 7, 2012. However, Respondent's medical records for S.N. list the patient's blood pressure on

[1] Chronic Obstructive Pulmonary Disease (COPD) includes the two lung problems of chronic bronchitis caused by inflammation of the airways and emphysema associated with damage of the air sacs and/or collapse of the smallest breathing tubes in the lungs.

December 7, 2012, as 120/80. Respondent also lists a mini-mental status exam result of "17 /moderate impairment." Respondent then checked boxes that said these conditions prohibited the patient from reading, writing or speaking English or answering questions about US history/civics in her native language.

E. A review of the medical records for S.N. from her primary physician, Dr. N., shows consistent blood pressures of 125/80, 120/85, 120/75. Those records contain no suggestion of uncontrolled hypertension or memory or cognitive impairment. None of S.N.'s other medical records mention any cognitive impairment.

F. S.N. was interviewed by a Department of Consumer Affairs (DCA) Investigator and Medical Board Consultant. Those interviews revealed that S.N. had been in the United States for 10 years and had passed the United States history and government tests in her native language. S.N. stated that she listened to the news in her language, goes shopping and cooks. The Medical Board Consultant performed a mini-mental status examination on S.N. and determined S.N. was capable of doing most of the tasks well and did not exhibit the memory loss or cognitive dysfunction claimed by Respondent.

G. S.N.'s medical records from Respondent dated December 7, 2012, and June 14, 2012, respectively, list S.N.'s symptoms as shortness of breath, difficulty breathing, acute wheezing, as well as cough, dizziness, fatigue and anxiety. The physical examination lists "arrhythmia" but does not give any physical characteristics. Respondent's diagnoses include "hypertension, not well controlled" when the stated blood pressure was 120/80, which is normal and controlled. Respondent told S.N. to see her own doctor and gave her a sample inhaler at the visit.

H. At S.N.'s initial visit, Respondent listed "certification for INS" as S.N.'s chief complaint. Respondent also listed all of the past diagnoses as well as the mini-mental status as 17. Respondent lists number values for some of the elements of the mini-mental examination without detail. In addition, there is no written response for two of the questions and Respondent stated that the patient was drowsy. A "Spirotouch" spirometry (lung measurement) was done at the initial visit. It lists S.N. as a non-smoker although one of the stated recommendations is to

stop smoking. Although the readings were only done once and were listed as non-reproducible, Respondent makes a conclusion of moderately severe obstruction.

I. During Respondent's Medical Board interview, she stated that she made a diagnosis of poorly controlled hypertension based on S.N.'s symptoms. As noted above, those symptoms do not appear to exist.

J. Respondent makes diagnoses of atherosclerosis, memory loss and hypertension (poorly controlled) that are not based on current medical standards or thinking. She does not appear to understand the diagnosis of hypertension, what defines poorly controlled or how it affects the body. She does not appear capable of performing a mini-mental status examination and scoring it. She uses the term "organic brain dysfunction" but cannot provide an understanding of the elements of this condition or what leads to this condition. Respondent uses terms such as "arrhythmia" as a physical diagnosis inappropriately. Respondent asserts that hypertension and COPD cause memory loss when this is inaccurate for the general population and she is unable to cogently explain her reasons for that conclusion.

11. Patient V.M.

A. V.M. first saw Respondent on or about August 21, 2007. Respondent's initial assessment of this patient was for "migraine headaches, dizziness and numbness of the face." V.M. had a blood pressure of 100/70 and the exam was unremarkable and the mental status on the exam was noted to be "intact." Respondent's plan was to give her "Lasix- furosemide" for her migraines and to get old records.

B. At V.M.'s next visit, the patient complained of "troubled breathing" and fatigue. She was found to have wheezing on examination. The plan listed was to obtain lab tests, a "cream" and to "continue current medications." The records have no mention of any new or specific treatment for the wheezing or shortness of breath. A subsequent visit was for laboratory test results and a worsening migraine. Respondent ordered a Neurology referral. At another visit, Respondent indicated that the patient was under the care of a psychiatrist and had issues of "forgetfulness."

C. Respondent filled out the N-648 form and certified that this patient was disabled and unable to comply with language and learning requirements for citizenship. Respondent listed multiple diagnoses including, "memory disturbances, hyperlipidemia/ atherosclerosis, asthma, allergic rhinitis, anxiety, depression, insomnia, lower back pain/ osteoarthritis, headaches, dizziness and obesity" as the reasons for V.M.'s disability. Respondent stated that her examination revealed impaired memory, orientation, language skills and other cognitive functions. She stated that the patient needed supervision. She stated that this patient had symptoms consistent with "Organic brain dysfunction" from asthma, allergic rhinitis and hyperlipidemia. She also stated that the patient's atherosclerosis and depression contributed to her brain dysfunction. The only measure on her examination that supported the above was her statement that the patient had a mini-mental status result of 18; however, the exact form or how she got that number was not evident.

D. On or about March 4, 2014, a DCA Investigator together with a Medical Board Consultant interviewed V.M. V.M. stated that she normally saw another physician who cared for her migraine headaches, asthma and slight memory loss. The Medical Board Consultant gave the patient a mini-mental status exam. The score was not revealed but the patient did fairly well on the test and did not exhibit the degree of disability stated by Respondent. Neither did V.M. appear to need supervision.

12. Patient M.M.

A. M.M., a 51-year-old female, saw Respondent on one occasion on or about August 21, 2012. However, on or about December 5, 2012, Respondent filled out the N-648 form based on that one visit.

B. Respondent stated that the patient had "migraines, dizziness, hypertension, depression, anxiety and decreased memory." Respondent's records indicate that M.M. is widowed but there is no mention of any need for help in daily activities.

C. In the medical records from the single visit, Respondent lists "palpitation" as an element of the physical exam. However, palpitation is actually a patient's symptom, not a physical finding. Respondent ordered an office spirometry (a lung function test) without giving a

diagnosis that served as an indication for performing this test on this patient. Respondent performed a mini-mental status examination and M.M. was scored as an 18. However, there are no examples of the patient's writing or diagrams to back up the scores as required for this type of mini-mental status examination. Respondent's notes contain no diagnostic differential for her memory loss or discussion of work-up or further testing needed.

D. Medical records for M.M. from 2009 to 2012 list hypertension, migraine, depression and insomnia, but do not list a memory disorder.

13. Patient G.H.

A. G.H. is a 52-year-old male who went to Respondent on one occasion to have the N-648 form filled out. Respondent based her report on that single visit and a review of his past medical records.

B. Respondent listed the diagnoses that formed his disability impairment as set forth on the N-648 form as "Hypertension, atherosclerosis, hyperlipidemia, diabetes with peripheral neuropathy, insomnia and generalized weakness." Respondent stated that these conditions lead to reduced blood flow to the brain and subsequent cognitive and memory loss. She mentioned a depressed mood but did not list it as a diagnosis. She stated that his mental impairment was consistent with "significant organic brain syndrome" from the above medical conditions.

C. Respondent lists a mini-mental status examination of G.H. with a result of 18. However, Respondent noted that G.H. was "drowsy" without an explanation and does not give any information regarding any of his attempts to answer any of the mini-mental examination questions or do the written drawings.

D. G.H.'s medical records from his primary physician were also reviewed. Those records contain no mention of brain damage, dysfunction, central neurologic events or depression that would affect memory or functioning.

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14. Patient I.B.

A. I.B. is a 56-year-old female who saw Respondent from 2012 until March 2014. I.B. first presented with multiple issues and for her INS N-648 form to be filled out. She stated she had a history of "syphilis, dizziness, anxiety, depression, COPD and memory issues."

B. At the initial visit Respondent performed a physical examination and noted normal vital signs but listed "scattered wheezes" and "arrhythmia." The records indicate that her plan was to continue with the patient's current medications and recommend diet and exercise. There is no mention of the "arrhythmia" or "wheezes" in Respondent's problem list for I.B. or in the diagnoses or plan. Respondent stated that she did an EKG and Spirometry test. On subsequent visits, Respondent again notes "wheezes" and "arrhythmia." The records reflect that Respondent again mentions doing an EKG and lists the EKG's interpretation as "abnormal/ arrhythmia." However, Respondent never clarifies this diagnosis or indicates that she has a plan for this potentially serious problem.

C. Respondent completed the N-648 Medical Certification for I.B. on or about May 9, 2013. She lists several diagnoses for her reasons for the patient's disability, including memory loss, COPD, asthma, syphilis, depression, anxiety, insomnia and dizziness. Respondent's rationale is that these conditions caused cognitive problems. Respondent states that the patient needs help taking medications, making meals and needs supervision. Respondent states that the patient has brain damage due to asthma and COPD. Respondent states that "[T]he patient with status asthmaticus is very seriously ill." However, none of these assertions are mentioned in her medical records and nowhere does she mention or support a diagnosis of "status asthmaticus."

D. I.B. was admitted into Olive View Hospital for suicide ideation on or about March 15, 2014. In the records from Olive View Hospital, there is no mention of any of the cognitive issues asserted by Respondent.

E. Respondent failed to use history and physical diagnosis skills to make appropriate assessments of I.B.'s problems. Respondent failed to care for abnormalities through standard testing and make specific diagnoses regarding I.B. Respondent failed to assess I.B. and

make recommendations for further care and or treatment. Respondent failed to assess I.B. for chronic diseases and make appropriate treatment recommendations.

15. Patient S.K.

A. S.K. is a 62-year-old woman who first saw Respondent in August 2011. She presented with complaints of "hypertension, joint pains, muscle aches, emotional instability, and urinary complaints." Respondent saw S.K. again in October 2011 for a physical examination. S.K. was then seen again in January 2012 and September 2013. On multiple visits the patient complains of nonspecific chest pains. Respondent does refer her to cardiology, although in her final visit in April 2013, the patient indicates that she had missed the cardiology consultation. The physician lists "emotional instability" without any details. The patient was referred for depression care.

B. Respondent completed an N-648 form for this patient on February 21, 2013. On the form Respondent states that the patient is disabled due to: memory loss, hypertension/poorly controlled, hyperlipidemia and atherosclerosis, anxiety, depression, insomnia, Vitamin D deficiency, urinary incontinence, arthralgia and rheumatoid arthritis, leg pain and dizziness. Respondent states that the patient has cognitive function problems such as being able to make meals, take medications and needs assistance and supervision. Respondent lists the patient's blood pressure as 155/90 and mini-mental status examination result of 18.

C. On or about March 4, 2014, the Medical Board Consultant interviewed S.K., and determined that S.K. does not have English skills and has some difficulties at home requiring help with her medications. However, she was able to perform aspects of the mini-mental status test correctly.

16. Patient M.A.

A. M.A. is a 58-year-old woman who saw Respondent on three occasions. In addition, M.A. was seen at Olive View Hospital. She presented with multiple complaints including emotional symptoms and arm pains.

B. On or about April 9, 2013, Respondent filled out the N-648 form for this patient and listed her disability as arising from memory loss, atherosclerosis, hyperglycemia, dizziness,

headache, bradycardia, arthralgia, back pain, insomnia, anxiety and depression. However, the medical records from Respondent's office do not support the statements made on the form as to M.A.'s cognitive deficits. She does not make a diagnosis of atherosclerosis or discuss the other conditions listed on the N-648 form. Furthermore, her explanation for the relationship between these conditions and cognitive dysfunction is not based on current medical understanding.

17. Patient A.H.

A. A.H. presented to Respondent in May 2012, with high blood pressure and was given Procardia 10 mg sublingually to temporarily bring down the blood pressure. Respondent noted that: "[T]he patient has the ability and willingness to enact treatment plan. The patient has the self management skills to manage hypertension care." A.H. also made a visit to Respondent's other office. This visit was made in January 2013 and the physician mentioned that the patient "was seeking care elsewhere and apparently came specifically to get the N-648 form filled out." Respondent filled out the N-648 form for A.H. on April 18, 2013.

B. Respondent stated on the N-648 form that A.H. was disabled due to: memory loss, hypertension/malignant, arrhythmia, atherosclerosis, COPD, obesity, hip pain, anxiety, depression and insomnia. Respondent gave a long description for her reasoning as to how these conditions caused cognitive decline.

C. Respondent's use of sublingual Procardia was inappropriate to bring down blood pressure. Such use can be dangerous and serves no purpose in A.H.'s situation. Respondent used the term "malignant hypertension." This diagnosis was incorrect. Respondent does not seem to understand that malignant hypertension is an acute condition that merits hospitalization if the patient correctly meets the criteria, which A.H. did not.

18. Patient N.H.

A. N.H. is a 59-year-old woman who presented to Respondent on February 28, 2013, according to the medical records, "for physician's certificate for INS . . . "

B. N.H. was diagnosed with severe asthma, anxiety, depression, memory disturbances, dizziness, and atherosclerosis. Respondent performed a mini-mental status exam that lacked the same elements as the diagnosis. Medical records from N.H.'s primary physician

were reviewed and those records list asthma as a diagnosis, but not severe. The other issues stated by Respondent are not listed in the medical records from the primary physician.

C. N.H's N-648 form listed disability due to memory loss, atherosclerosis, asthma, depression, anxiety, dizziness and a wrist fracture. Respondent lists explanations for cognitive deficits that are not part of medical physiology and do not reflect a current understanding of any of these conditions.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Gross Negligence)

19. Respondent is subject to disciplinary action under section 2234(b) in that she was grossly negligent in her treatment and diagnosis of patients S.N., V.M., M.M., G.H., I.B., M.A., A.H. and N.H. The circumstances are as follows:

20. Paragraphs 1 through 18 are incorporated herein by this reference as though fully set forth herein.

21. Respondent makes various diagnoses for all of the above-referenced patients which are not based on current medical standards or thinking, all as set forth above.

22. Respondent repeatedly makes the diagnosis of "arrhythmia" without giving an appropriate medical description, diagnosis or treatment plan. In addition, she talks about severe COPD and asthma but her management is very limited and does not reflect the appropriate care for a patient with severe COPD or asthma.

23. In the case of I.B., Respondent failed to use history and physical diagnosis skills to make appropriate assessments of I.B.'s problems. Respondent failed to care for abnormalities through standard testing and make specific diagnoses regarding I.B. Respondent failed to assess I.B. and make recommendations for further care and or treatment. Respondent failed to assess I.B. for chronic diseases and make appropriate treatment recommendations.

24. In the case of A.H., Respondent displayed a significant error in hypertension management. The use of sublingual Procardia is not recommended to bring down blood pressure; it can be dangerous and serves no purpose in this situation. In addition, Respondent used the term "malignant hypertension." However, she did not make this diagnosis correctly or seem to

understand what it means. It is an acute condition that merits hospitalization if the patient correctly meets the criteria, which A.H. did not.

25. Because Respondent was grossly negligent in her diagnoses and failed to base her diagnoses and conclusions on current medical standards, she has violated section 2234(b) of the Code.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional conduct - Repeated Negligent Acts)

26. Respondent is subject to disciplinary action under section 2234(c) in that Respondent was repeatedly negligent in the care and treatment of patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. The circumstances are as follows:

27. Paragraphs 1 through 25 are incorporated herein by this reference as though fully set forth herein.

28. Respondent indicates incorrect blood pressures, mini-mental status reports, cognitive difficulties, memory disturbances, hyperlipidemia/atherosclerosis, and various other illnesses and ailments together with false historical information resulting in false and misleading diagnoses, all as set forth above.

29. In the case of V.M., Respondent used Lasix (a strong diuretic) as a treatment for migraine headaches. This is not a recommended treatment and makes no sense as a treatment for migraines.

30. Respondent made claims that the patient's mental condition was caused by things such as allergic rhinitis and atherosclerosis. These are misleading claims, that are not correct nor do they reflect current or appropriate medical knowledge.

31. Because Respondent was negligent in her diagnoses and failed to base her diagnoses and conclusions on current medical standards, she has violated section 2234(c) of the Code.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional conduct - Dishonesty)

32. Respondent is subject to disciplinary action under section 2262 of the Code in that Respondent created false medical records for patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. with fraudulent intent. The circumstances are as follows:

33. Paragraphs 1 through 31, are incorporated herein by this reference as though fully set forth herein.

34. The information on the N-648 form for all of these patients is incorrect and purposefully misleading. Respondent indicates incorrect blood pressures, mini-mental status reports, cognitive difficulties, memory disturbances, hyperlipidemia/atherosclerosis, and various other illnesses and ailments together with false historical information resulting in false and misleading diagnoses; all of which are incorrect and not substantiated, all as set forth above, in order to enable the patients to avoid a citizenship test or evaluation.

35. In the case of V.M., Respondent makes claims on the INS form that the patient's mental condition was caused by things such as allergic rhinitis and atherosclerosis. These are misleading claims, that are not correct nor do they reflect current or appropriate medical knowledge.

36. In the case of G.H., Respondent stated that his mental impairment was consistent with "significant organic brain syndrome," but a review of his physician's pre-existing medical records do not show any indication of this diagnosis or other alleged conditions as set forth on the N-648 form Respondent filled out for this patient.

37. In the case of I.B., Respondent made statements on the N-648 form that were false and misleading. She does not list the medical evidence to back up her assertions on the form or in her charting. In addition, her explanations do not represent standard medical thinking or understanding.

38. In the case of S.K., Respondent made statements on the N-648 form that were false and misleading regarding the patient and her medical conditions that she says led to cognitive

dysfunction. Respondent does not have the medical evidence to back up her assertions. In addition, her explanations do not represent standard medical thinking or understanding.

39. In the case of M.A., Respondent made statements on the N-648 form that were false and misleading. There is no medical evidence to back up Respondent's assertions. In addition, her explanations do not represent standard medical understanding as to the explanation for these cognitive deficits.

40. In the case of A.H., Respondent made statements on the N-648 form that were false and misleading. Respondent claimed that A.H. lacked cognitive abilities, but had previously stated that A.H. ". . . has the ability and willingness to enact treatment plan. The patient has the self management skills to manage hypertension care." Respondent's analysis of A.H.'s cognitive abilities prior to the completion of the N-648 are contrary to her statements on the N-648 form.

41. In the case of S.N., Respondent made statements on the N-648 form that were false and misleading. She does not list the medical evidence to back up her assertions on the form or in her charting. In addition, her explanations do not represent standard medical thinking or understanding.

42. In the case of M.M., Respondent made statements on the N-648 form that were false and misleading. She does not list the medical evidence to back up her assertions on the form or in her charting. In addition, her explanations do not represent standard medical thinking or understanding.

43. In the case of N.H., Respondent made statements on the N-648 form that were false and misleading. She does not list the medical evidence to back up her assertions on the form or in her charting. In addition, her explanations do not represent standard medical thinking or understanding.

44. Respondent's creation of false medical records for patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. with fraudulent intent is a violation of section 2262 of the Code.

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FOURTH CAUSE FOR DISCIPLINE

(Unprofessional conduct - Incompetence)

45. Respondent is subject to disciplinary action under section 2234(d) in that she was incompetent in her treatment and diagnosis of patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. The circumstances are as follows:

46. Paragraphs 1 through 44, are incorporated herein by this reference as though fully set forth herein.

47. Respondent makes various diagnoses for all of the above-referenced patients which are not based on current medical standards or thinking, all as set forth above.

48. Respondent repeatedly makes the diagnosis of "arrhythmia" without giving an appropriate medical description, diagnosis or treatment plan. In addition, she talks about severe COPD and asthma, but her management is very limited and does not reflect the appropriate care for a patient with severe COPD or asthma.

49. Because Respondent was incompetent in her diagnoses and failed to base her diagnoses and conclusions on current medical standards, she has violated section 2234(d) of the Code.

50. In the case of A.H., Respondent displayed a significant error in hypertension management. The use of sublingual Procardia is not recommended to bring down blood pressure; it can be dangerous and serves no purpose in this situation. In addition, Respondent used the term "malignant hypertension." However, she did not make this diagnosis correctly or seem to understand what it means. It is an acute condition that merits hospitalization if the patient correctly meets the criteria, which A.H. did not.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

51. Respondent is subject to disciplinary action under section 2266 in that she failed to maintain adequate and accurate medical records for patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. The circumstances are as follows:

52. Paragraphs 1 through 50 are incorporated herein by reference as if fully set forth herein.

53. Respondent's failure to maintain adequate and accurate medical records for patients S.N., V.M., M.M., G.H., I.B., S.K., M.A., A.H. and N.H. is a violation of section 2266 of the Code.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A80337, issued to Karine Gaboian, M.D.

2. Revoking, suspending or denying approval of her authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering her to pay the Medical Board of California the costs of probation monitoring if placed on probation;

4. Taking such other and further action as deemed necessary and proper.

DATED: April 10, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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